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BEFORE THE STATE AUDITOR;
EX-OFFICIO COMMISSIONER OF SECURITIES AND INSURANCE
HELENA, MONTANA

IN THE MATTER OF:)	Case No.: INS-2009-53
)	(SAO-2009-1607)
JAMES L. ROBINSON, individually and in his)	
capacity as a licensed insurance producer.)	CONSENT AGREEMENT and
)	ORDER
Respondent.)	

The Commissioner of Securities and Insurance (hereafter "Commissioner") and Respondent James L. Robinson (hereafter "Robinson") enter into the following Consent Agreement to resolve issues raised by the staff of the Investigations Bureau (hereafter "Bureau") of the Commissioner's office and allegations made pursuant to the authority of the Montana Insurance Code, §§ 33-1-101, *et seq.*, MCA (2007). The following Factual Allegations and Conclusions of Law justify and support the disciplinary treatment set forth in this Agreement.

ALLEGATIONS

1. On or about April 9, 2009, the Bureau opened an investigation into allegations Robinson misappropriated \$726.00 premium while employed with Montana Farmers Union Insurance Agency (hereafter "MFUIA.")

2. From documents provided by the Insurance Licensing Division of the State Auditor's Office (the Department), the Bureau discovered Robinson obtained his Montana Producer's license, #709133, effective January 20, 2009. Robinson began training with the Montana Farmers Union Insurance Agency, Inc. for his appointment with Farmers Union Mutual

Insurance Company (hereafter "Farmer's Union.") Robinson then resigned effective March 2, 2009.

3. In or near April 2009, Robinson's customers L. and C. M. contacted Farmers Union upon receiving a cancellation notice for non-payment of premium. These insurance consumers provided a copy of a receipt they received when they paid the \$726.00 premium and a copy of their check used to pay part of the premium. Farmers Union reviewed the evidence provided by the insurance consumers and reversed the policy cancellation.

4. Bureau staff attempted to contact Robinson regarding these allegations but he did not respond to written inquiries. On further investigation, Bureau staff discovered Robinson had moved to Colorado without notifying the Insurance Department. On or about July 15, 2009, Bureau staff interviewed Robinson via telephone. Robinson admitted he still had the missing premium money.

5. On or about July 17, 2009, Bureau staff contacted Shana Bushilla (hereafter "Bushilla") at US Bank's Helena, Montana location. Bushilla reported that Robinson's Farmers Union account number remained open as of that date, and had never closed. Bushilla reported activity on the account indicates \$726.00 withdrawn from the account on May 7, 2009 and \$726.00 deposited into the account on July 16, 2009.

6. Robinson provided a money order to Farmers Union in the amount of \$726 dated July 23, 2009, repaying the premium he collected from L. and C. M.

7. Bill Thompson (Thompson) is a licensed insurance producer an agent for MFUIA with an office in Helena. Thompson was interviewed by Bureau staff. He showed Bureau staff three drawers with files designated A through Z that were in Robinson's control while Robinson served as an insurance agent for Farmers Union. Thompson acknowledged that approximately 80 files were boxed up and left on the sidewalk outside the agency's front doors sometime on the

weekend of February 28, 2009 through March 1, 2009. The boxes held private information and were placed where they were available to the general public. Files contained bank account information, credit histories, names, addresses, birth dates, driver license numbers and social security numbers.

If the foregoing facts were proven at hearing, the following would be implemented:

CONCLUSIONS OF LAW

1. The Commissioner has authority to take disciplinary action against Robinson under the provisions of §§ 33-1-317, 33-1-315, 33-1-1302, 33-17-214 (6) (a), 33-17-1001, 33-17-1102, 33-19-306, and 33-19-405, MCA, and ARM §§ 6.6.7001-7018.
2. The administration of the Montana Insurance Code, § 33-1-101, *et seq.*, MCA, is under the supervision and control of the Commissioner, pursuant to § 33-1-301, MCA.
3. The Commissioner shall administer the Insurance Department to ensure the interests of insurance consumers are protected, pursuant to § 33-1-311 (3), MCA.
4. Robinson violated § 33-1-1302, MCA, when he offered and sold insurance coverage to Montana consumers L. and C. M. while misrepresenting the fact that he would forward the premium payment on to the insurer, Farmers Union, knowing this to be untrue because Robinson intended to keep the premium payment and that such misrepresentation was detrimental to the consumers who relied on it.
5. Robinson violated § 33-17-214 (6) (a) (i), MCA, when he failed to provide the Commissioner a written change of address.
6. Robinson violated § 33-17-1001 (1) (a), (c), (d) and (f), MCA, when he converted for his own use the premium paid by Montana insurance consumers L. and C. M.

7. Robinson violated § 33-19-306(1), MCA, and ARM §§ 6.6.7001-7018, when he allowed the personal and privileged information about individuals he collected and/or received in connection with his insurance transactions with consumers to be placed in jeopardy of disclosure, by placing those records on the sidewalk outside a Helena business.

Based on the foregoing Allegations of Fact and Conclusions of Law, the Commissioner and the Respondent hereby enter into the following:

AGREEMENT

1. Without admitting or denying the Allegations of Fact set forth herein, Respondent James L. Robinson stipulates and consents to the following:

- a. Robinson shall pay a fine of \$5,000.
- b. The fine shall be suspended for one year from the date this agreement is signed.

Should Robinson fail to abide by the terms of this agreement during the suspension period, the fine shall become immediately due and payable.

c. Robinson shall surrender his Montana insurance producer's license on signing this agreement.

d. Robinson shall refrain from applying for an insurance producer's license in any state during the one year suspension period.

- e. Robinson shall be law abiding during the one year suspension period.

2. Pursuant to the stipulations, agreements and consents by Robinson, the Commissioner agrees to refrain from referring this matter for further legal action, whether civil or criminal.

3. All parties to this Consent Agreement agree and acknowledge this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or

agreements, either express or implied. Robinson fully and forever release and discharge the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries that may arise from the allegations underlying this Consent Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the Consent Agreement.

DATED this 6TH day of November, 2009.

MONICA J. LINDEEN
COMMISSIONER OF SECURITIES AND INSURANCE

By: Robert Moon
Robert Moon
Deputy Insurance Commissioner

SUBSCRIBED AND SWORN to before me this 6th day of November, 2009.

Darla Sautter
Darla Sautter
Notary Public for the State of Montana
Residing at Helena, Montana
My commission expires 4/14/2010

DATED this _____ day of November, 2009.

James L. Robinson

SUBSCRIBED AND SWORN to before me this _____ day of November, 2009.

Signature

Printed name

Notary Public for the State of _____

Residing at: _____

My commission expires _____